

## **COUNTY OF FAIRFAX, VIRGINIA**

### **SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS**

SILVIA PIZARRO, SP 2013-MV-014 Appl. under Sect(s). 8-301 and 8-914 of the Zoning Ordinance to permit home child care facility and reduction in minimum yard requirements based on error in building location to permit patio to remain 0.0 ft. from side lot line. Located at 2907 Douglass St., Alexandria, 22306, on approx. 6,534 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 102-1 ((3)) (2) 44A. (Concurrent with VC 2013-MV-015) (Indefinitely deferred from 5/1/13 at appl. req.) (Reactivated on 6/28/13.) Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 25, 2013; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. The Board has a staff recommendation of approval for the child care facility and adopts the rationale in the staff report.
3. For the purposes of the impact on the neighbors, the request to go to a maximum of twelve is minimal.
4. It seems to have been operating with eleven children for somewhat longer hours without complaint.
5. It does not seem that the differential between seven and twelve or seven and eleven children is going to be that significant.
6. With the imposition of the development conditions, the impacts on the neighbors would be minimized.
7. Resolving the issues with the driveway, which can be done with some changes to the conditions, it should be consistent with other approvals that the Board has made.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;

- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This approval is granted to the applicant, Silvia Pizarro, only and is not transferable without further action of the Board, and is for the location indicated on the application, 2907 Douglas Street, and is not transferable to other land.
- 2. This special permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the plat titled, "Plat Showing the Improvements on Lot 44A, Block 2, Section 1 of a Minor Adjustment of Property Line Part of Lots 42, 43, 44, & 45, Thornrose" by Dominion Surveyors Inc., dated October 5, 2012, as revised through August 28, 2013, and approved with this application, as qualified by these development conditions. Notwithstanding the driveway location shown on the plat, front yard coverage over 30% is not approved.


3. A copy of this Special Permit **SHALL BE POSTED in a conspicuous place on the property of the use** and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The maximum hours of operation of the home child care facility shall be limited to 5:30 a.m. to 6:30 p.m., Monday through Friday.
5. The maximum number of children on site at any one time shall be twelve, excluding the applicant's own children.
6. The dwelling that contains the child care facility shall be the primary residence of the applicant.
7. Pick-up and drop-off of children shall take place in the driveway.
8. A minimum of two parking spaces shall be provided on the subject parcel within the areas of existing paving, one of which shall remain open for pick-up and drop-off of children.
9. There shall be no signage associated with the home child care facility.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.

Mr. Byers seconded the motion, which carried by a vote of 6-0. Ms. Theodore was absent from the meeting.

A Copy Teste:

  
Suzanne Frazier, Deputy Clerk  
Board of Zoning Appeals